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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 JONATHON MORGAN,

12 Plaintiff,

13 vs.

14 DURAN, et al.,

15 Defendants.
16 _____/

CASE NO. CV-F-02-6316 AWI DLB P

ORDER RE PLAINTIFF'S MOTION
TO COMPEL ANSWERS TO
INTERROGATORIES

[Doc 70]

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18 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights action
19 pursuant to 42 U.S.C. § 1983. Defendants answered the second amended complaint upon which this
20 action proceeds on January 3, 2005 and the Court issued an order opening discovery on January 26,
21 2005. On April 20, 2005, plaintiff filed a motion to compel further responses to interrogatories 4, 5, and
22 6 served on defendant Duran on January 12, 2005 and February 4, 2005. When defendants did not file
23 an opposition to the motion, the Court ordered them to do so. Defendants filed an opposition on August
24 11, 2005 and plaintiff filed a reply on August 17, 2005.

25 The following Interrogatories are at issue:

26 Interrogatory No. 4: On August 8, 2002, did you use a lancet to give Jonathan Morgan a
27 fingerstick?

28 Response to Interrogatory No. 4: On August 8, 2002, I ordered Morgan to perform a diabetes test.

Interrogatory No. 5: On 8/8/02, did you acquire Jonathan Morgan's informed written consent to perform the fingerstick procedure?

Response to Interrogatory No. 5: Jonathan Morgan gave me his verbal consent to aid performing the diabetes test.

Interrogatory No. 6: On 8/8/02, during all time [sic] while you were administering the fingerstick, Jonathan Morgan was under restraints of a Lanyard operated and controlled by defendant Warner through a Food Tray Slot?

Response to Interrogatory No. 6: On August 8, 2002, Jonathan Morgan was wearing a restraint while I was aiding him performing the diabetes test.

Plaintiff argues the responses are evasive and incomplete. Defendants argue the answers are appropriate. The Court agrees with plaintiff as to Interrogatory numbers 4 and 6.

DISCUSSION

Federal Rule of Civil procedure 33(b) requires each interrogatory to be answered separately and fully in writing under oath, unless it is objected to, in which event the objecting party shall state the reasons for objection and shall answer to the extent the interrogatory is not objectionable. Fed. R. Civ. P. 33(b).

Defendant's answers to Interrogatories 4 and 6 are not responsive to plaintiff's questions. In Interrogatory Number 4, plaintiff asks whether defendant Duran performed the fingerstick. In response, defendant states that he ordered plaintiff to perform a diabetes test. This response does not address plaintiff's question of whether defendant himself performed the fingerstick. Similarly, in response to Interrogatory Number 6, defendant states that plaintiff was wearing a restraint while defendant was "aiding him performing the diabetes test" but defendant fails to respond to the interrogatory which specifically asks whether plaintiff was "under restraints of a Lanyard operated and controlled by defendant Warner through a Food Tray Slot." Plaintiff's interrogatories are appropriately designed to narrow the issues in this case and he is entitled to complete answers from defendant.

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IT IS SO ORDERED.

/s/ **Dennis L. Beck**
UNITED STATES MAGISTRATE JUDGE